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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/018,307	10/29/2001	Josef Scharmuller	SCHARMULLER -1 PCT	4882

7590 05/27/2003

Collard & Roe  
1077 Northern Boulevard  
Roslyn, NY 11576

EXAMINER

ROYAL, PAUL

ART UNIT	PAPER NUMBER
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3611 .

DATE MAILED: 05/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/018,307	SCHARMULLER, JOSEF	
	Examiner	Art Unit	
	Paul Royal	3611	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 October 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 4-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
     If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2</u> . | 6) <input type="checkbox"/> Other:  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. The preliminary amendment filed on 29 October 2001 has been entered.
2. The information disclosure statement filed 29 October 2001 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because no translation of the foreign documents or statement of the relevancy of the documents has been provided. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).
3. Note EP 176825 has been considered using information from the DERWENT database.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 4-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear which elements applicant considers the invention where applicant recites a variety of components such as a towing vehicle, trailer, coupling ball and ball socket but not all elements are shown. As best understood this application is drawn to the coupling device which is essentially the coupling ball 6 in combination with the moulded (molded) article 9, see Specification page 2 at "Best Realisation of Invention".

Further, the Specification states there is a "coupling device 5 with a coupling ball 6" and that the coupling ball 6 cooperates with a ball socket formed by a moulded article 9 made of steel. This makes the moulded article 9 seem to be separate from the coupling device 5. Since the Specification, as a whole, seems to present the moulded article 9 as part of the coupling device 5, in the interest of furthering prosecution on the merits of the application, the Examiner will assume the moulded article 9 and coupling ball together comprise the coupling device 5. To not do so would result in the coupling ball 6 being the only element identified as part of the coupling device 5 and the moulded article 9 not being considered a part of the coupling device 5 because it (the moulded article 9) was recited as cooperating with the coupling ball 6 of the coupling device 5 and therefore distinct from coupling device 5. Applicant is advised to more clearly distinguish the elements of the coupling device in the claims and in the Specification.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 4 & 6, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Coilbert et al. (US 6,113,125).

Coilbert et al. teaches a coupling device for a towing vehicle and a trailer, the coupling device comprising coupling ball (102) and a moulded article (101), having a ball socket (104) and a connecting plate (CPLATE, see Examiner's annotated Figure 2), said moulded article made of a ferrous material and presenting a casting crust at least on the interior of the socket, see claim 8.

Note it is well known that in the production of a cast steel moulded article (hitch coupler body) a crust forms during the casting process.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Coilbert et al. (US 6,113,125).

Coilbert et al., as applied to claim 4 teaches all the claim limitations except wherein the ball socket has a lesser hardness than the coupling ball.

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It is understood to be a design choice to use a ball socket Rockwell hardness which is less than the hardness of the coupling ball to selectively control wear.


### **Conclusion**


7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Olsson teaches a crust forms during the process of casting ferrous metals. Arndt teaches methods for surface treating ferrous materials. Herbenar teaches joint assembly. Easterwood teaches a trailer tongue hitch and ball clamp. Hollis teaches a trailer coupling. Denney et al. teaches a trailer hitch lock. Daniel teaches a gooseneck trailer hitch. Mannix (GB 2094250) teaches a ball and socket device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Royal whose telephone number is 703-308-8570. The examiner can normally be reached on 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 703-308-0629. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

  
P. Royal  
May 19, 2003

Paul Royal  
Examiner  
Art Unit 3611  
  
**LESLEY D. MORRIS**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 3600**

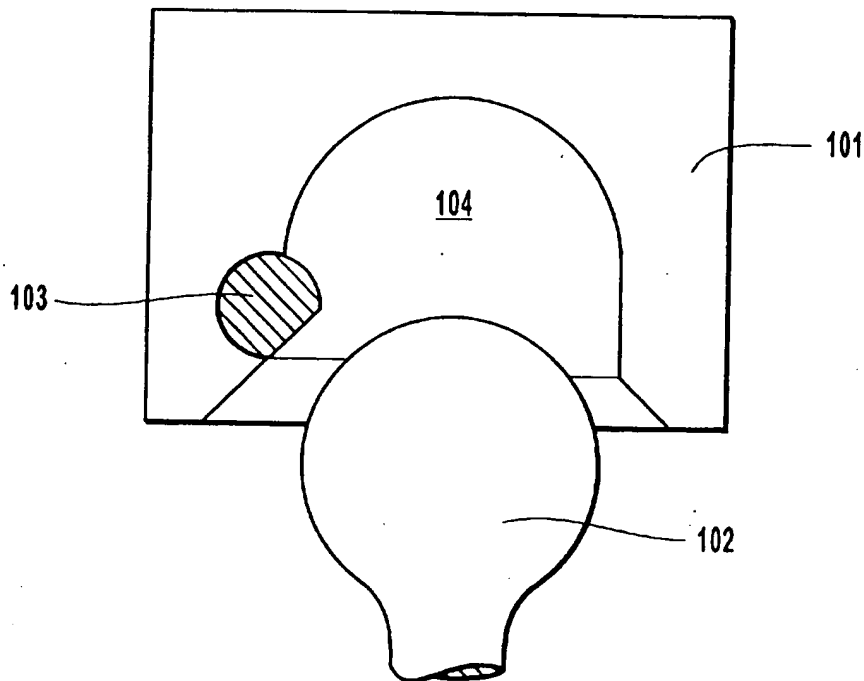


FIG. 1

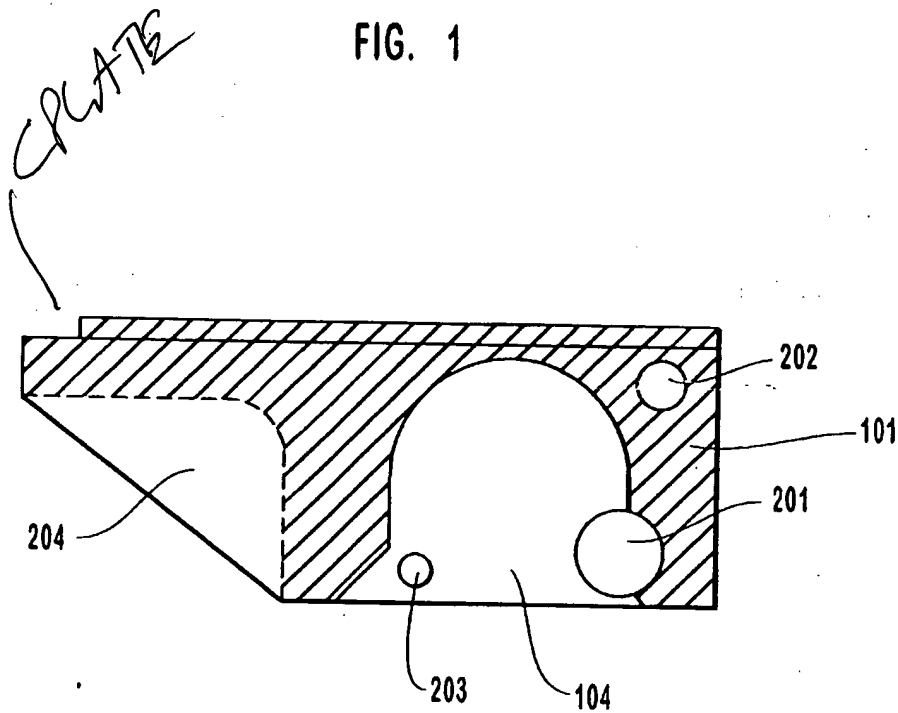


FIG. 2